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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,780	02/21/2004	James Parker Kennedy		2223

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JAMES PARKER KENNEDY
ONE YOUNG COURT
ROSEMARKIE, 1V10 - 8UY
UNITED KINGDOM

EXAMINER

GUADALUPE, YARITZA

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,780

Applicant(s)

KENNEDY, JAMES PARKER

Examiner

Yaritza Guadalupe McCall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 1 – 3 are objected to because of the following informalities:
 - a. Claim 1 recites the limitations “ said body ” in line 5 of the claim, “ the base ” in line 6 of the claim, “the cursor body ” and “ the displacement ” in line 8 of the claim, and “ the projection ” in line 10 of the claim. There is insufficient antecedent basis for these limitations in the claim. Appropriate correction is required.
 - b. Claim 2 recites the limitation “ the bridging cursor body ” in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.
 - c. Claim 3 recites the limitation “ the bridging cursor body ” in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

2. Claims 2 and 3 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Triplett (US 6,662,456) in view of Ming (US 6,546,634) and further in view of Ramm (US 2,540,405).

With respect to claim 1, Triplett discloses a measuring device comprising a bridging cursor (6, 7, 8, 10, 15) made of plastics material (See column 2, line 55) or metal, such as aluminum if so desired (See Column 2, line 55), containing a releasably locking mechanism (24, 25, 27) acting upon a steel ruler or scale (18) passing through said body (through channel 17 provided on said bridging cursor as shown in figure 2) at an angle of 90 degrees to a datum

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(i.e., workpiece # 4) drawn between two feet (7, 9) which form the base of the device and which when resting upon a reference face will in conjunction to a flat planar surface (10) indicate the displacement of the rule or scale relative to the datum thereby measuring the projection of a surface irregularity from the reference face of the workpiece (4).

Triplett does not disclose the slotted hollow cylinder acting upon the steel rule or scale and a bevel provided at the top or apex of the cursor body to indicate the displacement of the rule or scale relative to the datum as stated in claim 1. Triplett does not disclose the releasably locking mechanism in the form of a slotted hollow cylinder which acts upon the rule or scale and thereby controls the sliding action of the bridging cursor body as stated in claim 2. Triplett does not disclose the bevel at the top edge or apex of the bridging cursor body as stated in claim 3.

With respect to the slotted hollow cylinder as stated in claims 1 and 2 : Triplett discloses a releasably locking mechanism (24, 25, 27) mounted to one side of the bridging cursor body (6 – 8, 10) which allows to be locked / unlocked by means of fasteners, i.e., screws (25, 27), secured to a bar (24) which helps maintain the scale (18) within the channel and fixed during measurements by receiving one of said fasteners through an aperture (22) provided in the scale. Ming discloses a tool having a releasably locking mechanism (25) for securing a slidable member (29) against a bar member (20). The releasably securing mechanism of Ming comprises a slotted hollow cylinder (25) (slotted since it is provided with an aperture for receiving a pivot pin 27 that allows for locking / unlocking the position of the slidable member 29), said slotted hollow cylinder acting upon the slidable member (29) by frictionally engaging

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a projection on the cylinder against said slidable member (See Figures 6 and 7 for locked/unlocked positions respectively) in order to regulate the extension of the slidable member (See Column 2, lines 19 – 23). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device disclosed by Triplett by replacing its releasably locking mechanism with a releasably locking mechanism as taught by Ming, by removing the central fastener of Triplett and providing a central groove on the bar that will receive the slotted hollow cylinder (25) and pivot pin (27) of Ming, in order to regulate the extension of the slidable member (See Column 2, lines 19 – 23 of Ming).

In regards to the bevel at the top edge of the cursor body as stated in claims 1 and 3 : Triplett and Ming disclose a device having a bridging cursor having a flat planar surface (10) which helps indicate the displacement of the scale (18) as shown in Figures 7 and 10. Ramm discloses an instrument having a main body (1) comprising slidable members (2, 9) provided with markings to be read by the user in order to help mark and read dimensional parameters, said main body including a pair of beveled surfaces (11) having markings correspondent and correlated to markings seen through a sight hole (5) on said main body, thus said beveled surfaces serving as a guiding surface critically needed in order to enhance the reading and correlate the correspondent markings on its surface to the sight holes on the main body of the instrument. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the flat reference surface (10) disclosed by Triplett and Ming with a beveled guiding surface as taught by Ramm in order to enhance the reading of the scale.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered relevant to the present application :

- d. Johnson et al. (US 5,235,988)
- e. Kaufman (US 4,321,752)
- f. Shadeck (US 5,957,174)
- g. Raneses (US 3,745,658)
- h. Ryan (US 6,581, 502)
- i. Brown (US 3,903,609)
- j. Gasser (US 4,653,191)
- k. Winter (US 3,128,559)
- l. Hawkins (US 2,560,571)
- m. Pasquerella et al. (5,497,560)
- n. Cranor (US 5,077,909)
- o. Dickinson et al. (US 6,263,585)
- p. McKinney (US 4,577,412)
- q. Butler et al. (US 4,894,920)
- r. Barnett et al. (US 5,205,046)
- s. Hefti (US 3,645,002)
- t. Bennett (US 3,812,588)

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u. House (US 2,079,908)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859

YGM
February 7, 2005